IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 25481 of 2007(H)

OS.642/2007 of II Addl. SUB JUDGE,ERNAKULAM
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PETITIONER:

THE GODWAY FILM CORPORATION,
G.B.C.TOWER, S.A ROAD, KADAVANTHRA,
REPRESENTED BY ITS MANAGING DIRECTOR,
P. RAJEENDRAN, S/O. KUNJAPPAN NAIR,
AGED 37 YEARS, 76, KUMARANASAN NAGAR,
KADAVANTHRA, KOCHI.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

1. ULLATTIL MEDIAL VISION,
59/1913, 'ELAMANAMADATHIL, KALABHAVAN ROAD,
KOCHI -18, REPRESENTED BY ITS PROPRIETOR,
MR. U. SHASHIDHARAN,
S/O. LATE M. RAMANKUTTY NAIR,
ULLATTILL HOUSE, PALLAVUR DESOM,
PALLAVUR VILLAGE, CHITOOR TALUK.

2. SRI. SUBAIR N.P.
S/O. PAREED KUNJU,
PROPRIETOR,
M/S. 'VARNACHITHRA FILMS,
40/9586, S.A.K. BUILDING, CHITTOOR ROAD,
ERNAKULAM, PULLEPPADY JUNCTION.

3. STATE OF KERALA REPRESENTED BY THE
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, TRIVANDRUM.

BY ADV. SRI. JOY, GEORGE
SMT. PRAICY JOSEPH
SMT. R. BINDU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN , J

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W.P.(C) NO. 25481 OF 2007

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Dated this the 21st day of August, 2007.

JUDGMENT

This writ petition is preferred against the interim order of injunction whereby the court below directed the defendant in the case to furnish the security for Rs.65 lakhs. The plaintiff is claiming an amount of Rs.57,75,000/- with 12% interest which is due to him. The defendant is eager enough to release the film in Malayalam - 'Black Cat' and the court injuncted the release of the film unless the security is not furnished. The apex court in the decision reported in **Venkatasubbian v. Chellappan** (2000(2) KLJ (NOC) 40) has held that in these type of cases the remedy available to the parties are either to file an appeal under Order 43 Rule I or to move the very same court which passed the ex parte order for variance. The matter requires urgent consideration because it deals with the life and death of the defendant. Therefore, I direct the II Additional Sub Judge, Ernakulam to consider the request of the writ petitioner and pass appropriate orders. I make it clear that the object can be achieved by satisfaction of the court regarding the sufficiency of security and if there is encumbrance that also maay be taken note of and order

passed accordingly. If there is any other suggestion, that also can be considered and urgent orders be passed so that the party can have a relief or if aggrieved can approach the appropriate appellate forum. Needless to say that, considering the nature of the suit both the parties is to have a realistic approach so that the interest of both are not defeated. The court may pass appropriate orders if it is posted day after tomorrow. Let it be advanced for tomorrow and the matter be heard. The registry is directed to inform the Subordinate Judge, Ernakulam about the decision of this Court so that further proceding can be heard immediately in I.A. No. 4919/2007 in O.S. No. 642/2007.

The writ petition is disposed of accordingly.

SD/-M.N. KRISHNAN, JUDGE.

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